

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

<http://www.ca.gov/spb.htm>

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

FEBRUARY 23, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn
(Report given by Laura Aguilera, Chief, Personnel Resources
and Innovations Division, California State Personnel Board.)

The Board was advised of the following:

- A. The next Board meeting will be held on March 7-8, 2000
in Sacramento and will include 5 oral arguments and 1
contract dispute hearing.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

- A. Attending the oral argument in the case of Cagle Moore
v. SPB, Department of Social Services (SPB Dec. No. 96-

12) - This case was scheduled before the Court of
Appeal, Third Appellate District, on February 18, 2000.

BOARD ACTIONS

4. STATE PERSONNEL BOARD SUMMARY MINUTES OF FEBRUARY 9, 2000

ACTION: Adopted on February 23, 2000

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

5. ADMINISTRATIVE LAW JUDGE CASES

On February 23, 2000, the Board adopted the following
decisions presented by Elise Rose, Chief Counsel, California
State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

PROPOSED DECISIONS

JAMES OTTO, CASE NO. 98-4596

Appeal from 5 percent reduction in salary for 4 months
Department of Fair Employment and Housing

ACTION: Reduction in Salary Modified to Official Reprimand

JAMES R. HORWITZ, CASE NO. 99-2586

Appeal from 40 days suspension
Department of Transportation

ACTION: Suspension Sustained

JULIETTE HOSEY, CASE NO. 99-4327

Appeal from 5 percent reduction in salary for 6 months
Department of Corrections

ACTION: Reduction in Salary Sustained

TODD A. THOMAS, CASE NO. 99-4333

Appeal from 10-calendar day suspension
Department of Corrections

ACTION: Suspension Revoked

JOSE L.G. MUNOZ, CASE NO. 99-4611

Appeal from 30-calendar day suspension
Department of Corrections

ACTION: Suspension Sustained

JAVIER GARCIA, CASE NO. 99-1546

Appeal from dismissal
Department of Corrections

ACTION: Dismissal Sustained

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DAVID M. ANKERSTJERNE, CASE NO. 99-3948
From 10 percent reduction in salary for 12 months
Department of Corrections
ACTION: Reduction in Salary Modified to 5 Percent for 6 Months

FEDERICO CHAVEZ, CASE NO. 99-1262
Appeal from 5 percent reduction in salary for 6 months
Unemployment Insurance Appeals Board
ACTION: Reduction in Salary Sustained

ROBERT BURKS, CASE NO. 98-4822
Appeal from discrimination
Department of California Highway Patrol
ACTION: Submitted

CAROLYN WILSON, case no. 99-3361
Appeal from demotion
Department of Corrections
ACTION: Demotion Sustained

DONNA GORDON, CASE NO. 99-1285
Appeal from dismissal
Health and Human Services Department
ACTION: Dismissal Modified to 120-day suspension

JAMES CASSMEYER, CASE NO. 99-3138
Appeal from dismissal
State Compensation Insurance Fund
ACTION: Dismissal Sustained

LESTER R. HAWORTH, CASE NO. 99-4416
Appeal from dismissal
Department of Mental Health
ACTION: Dismissal Sustained

VICTOR J. LEVY, CASE NO. 99-4001
Appeal from demotion
Department of Motor Vehicles
ACTION: Demotion Sustained

SHARON WILLIAMS, CASE NO. 99-2989
Appeal from rejection
Department of Mental Health
ACTION: Rejection Affirmed and Appeal Denied

PETITIONS FOR REHEARING

DONALD K. BARCY, CASE NO. 99-3212

Appeal from dismissal

Department of Corrections

ACTION: Petition for rehearing filed by Respondent Denied

6. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: (See page 11-14)

7. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On February 23, 2000, the Board adopted the following
decisions presented by Laura Aguilera, Chief, Personnel
Resources and Innovations Division, California State
Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

WITHHOLD FROM CERTIFICATION

- A. THEODORE KOCUR III, Case No. 99-1653
ACTION: GRANTED
- B. HENRY PENA, JR., 99-2511
Classification: Correctional Officer
ACTION: GRANTED

DISMISSAL CASES

- C. GLORYA EWING, Case No. 00-0120
Classification: Medical Technical Assistant, CF
ACTION: DISMISSED - Department withdrew action.
- D. LENDY GOMEZ, Case No. 99-4598
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Appellant withdrew appeal.
- E. RICK WILLMORE, Case No. 99-4929 (Voided Appointment)

Classification: Associate Information System Analyst
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

8. MEDICAL APPEALS

On February 23, 2000, the Board adopted the following decisions presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. JASON NEFF, Case No. 99-2358
Classification: Correctional Officer
ACTION: DENIED
- B. JOHN SEAMAN, Case No.99-1765
Classification: Special Agent
ACTION: DENIED
- C. ERIC SHAW, Case No. 99-2628
Classification: Cadet, California Highway Patrol
ACTION: DENIED

9. EXAMINATION APPEALS

On February 23, 2000, the Board adopted the following decisions presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. SANDRA MOORE, Case No. 98-5088
Classification: Assoc. Governmental Program Analyst.
ACTION: GRANTED
- B. PAUL T. PERA Case No. 99-2841
Final Filing Date: NO BULLETIN IN FOLDER
Examination: NO BULLETIN IN FOLDER
Class: Psychiatric Social Worker
Testing Agency: Department of Developmental
Services
Appeal Received: July 2, 1999
ACTION: DENIED
- C. ARASTOO, FRED, Case No. 99-2828
YEN, CLEMENT, Case No. 99-3128

ANSARI, FARIBA, Case No. 99-2748
AKHAVAN, HASSAN, Case No. 99-2757
Final Filing Date: April 29, 1999
Examination: Oral Interview
Class: Architectural Designer
Testing Agency: Department of Transportation
Appeal Received: June 28, 1999
ACTION: GRANTED

D. ALBERT R. HALM, Case No. 98-4205
Final Filing Date: June 18, 1998
Examination: Competitive Qualifications
Class: Research Manager II (GENERAL)
Testing Agency: Department of Transportation
Appeal Received: October 07, 1998
ACTION: GRANTED

E. RICHARD KELLY Case No. 99-0642
Final Filing Date: November 30, 1998
Examination: Supplemental Application
Class: Corporations Counsel
Testing Agency: Department of Corporations
Appeal Received: February 25, 1999
ACTION: GRANTED

F. CYNTHIA L. KRUEGER, Case No. 99-4473
Final Filing Date: July 29, 1999
Examination: Supplemental Application
Class: Office Technician (Typing)
Testing Agency: Employment Development
Department
Appeal Received: October 20, 1999
ACTION: GRANTED

10. RULE 212 OUT-OF-CLASS APPEALS

On February 23, 2000, the Board adopted the following decisions presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. CHRISTINE FARRIS, Case No. 99-2709
Classification: Manager III
ACTION: DENIED

11. NON-HEARING CALENDAR

On February 23, 2000, the Board adopted items A-E, with the exception of item "B" which was withdrawn by the Board. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. ENGINEER, WATER RESOURCES
ASSOCIATE ENGINEER, WATER RESOURCES
The Department of Water Resources proposes revisions to the existing specification for the deep class of Engineer, Water Resources; to establish additional alternate ranges, Ranges C and D; to revise the existing Alternate Range Criteria 351; to reallocate incumbents into the revised Engineer, Water Resources deep class; and to abolish the Associate Engineer, Water Resources class.
- B. WITHDRAWN BY BOARD - Rescheduled to 3/7-8/00.
- C. PHOTO-ELECTRONICS SPECIALIST SERIES
The Department of Justice proposes to revise the Photo-Electronics Specialist series specification to reflect changes, including those technological in nature; and increase the educational requirement for the Additional Desirable Qualification from equivalent to completion of the twelfth grade to an Associate of Arts or Associate of Science degree in Electronics from an accredited institution.
- D. FRAUD INVESTIGATOR, DEPARTMENT OF HEALTH SERVICES SERIES
FRAUD INVESTIGATOR, DEPARTMENT OF HEALTH SERVICES
SUPERVISING FRAUD INVESTIGATOR I, DEPARTMENT OF HEALTH SERVICES
SUPERVISING FRAUD INVESTIGATOR II, DEPARTMENT OF HEALTH SERVICES
The Department of Health Services proposes the establishment of a new series titled Fraud Investigator, Department of Health Services, including the establishment of three new classifications: Fraud Investigator, Department of Health Services; Supervising Fraud Investigator I, Department of Health Services; and Supervising Fraud Investigator II, Department of Health Services.
- E. LATENT PRINT ANALYST SUPERVISOR SERIES

The Department of Justice proposes to revise the Latent Print Analyst Supervisor series specification to include the following: update the Definition of Series, Definition of Levels, and Knowledge and Abilities to reflect changes, including those technological in nature.

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

NONE SUBMITTED.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) COMMUNITY HEALTH ADVISOR

The Air Resources Board's proposal to allocate the above position to the CEA category has been approved effective January 27, 2000.

(2) DEPUTY, ADMINISTRATION DIVISION

The Department of Child Support Services' proposal to allocate the above position to the CEA category has been approved effective January 27, 2000.

(3) CHIEF COUNSEL

The Unemployment Insurance Appeals Board's proposal to allocate the above position to the CEA category has been approved effective January 27, 2000.

(4) DEPUTY COMMISSIONER, STRATEGIC PLANNING

The Department of Insurance's proposal to allocate the above position to the CEA category has been approved effective January 27, 2000.

(5) PROJECT DIRECTOR, CALIFORNIA VETERANS HOMES

The Department of Veterans Affairs' proposal to allocate the above position to the CEA category has been approved effective January 28, 2000.

(6) LEGISLATIVE DIRECTOR

The California Environmental Protection Agency's proposal to allocate the above position to the CEA category has been approved effective February 3, 2000.

C. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND
1/1/99

- (1) CHIEF, ENVIRONMENTAL SERVICES OFFICE
The Department of Water Resources' request to refill the above position has been approved effective January 27, 2000.
- (2) DIRECTOR, INFORMATION SYSTEMS AND SERVICE CENTER
The Department of Transportation's request to refill the above position has been approved effective January 27, 2000.
- (3) CHIEF, STATE WATER PROJECT ANALYSIS OFFICE
The Department of Water Resources' request to refill the above position has been approved effective January 31, 2000.
- (4) DIRECTOR, OPERATIONS POLICY & PLANNING BUREAU
The Franchise Tax Board's request to refill the above position has been approved effective January 31, 2000.
- (5) ASSISTANT DEPUTY DIRECTOR, RESOURCE PROTECTION & IMPROVEMENT
The Department of Forestry & Fire Protection's request to refill the above position has been approved effective January 31, 2000.
- (6) DISTRICT SUPERINTENDENT
The Department of Parks & Recreation's request to refill the above position in the Monterey and San Simeon districts has been approved effective December 28, 1999.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN
(Hearing held February 9, 2000).

NO/ACTION

2. DEANNA DAVIES, CASE NO. 99-0073. Appeal from determination of back pay. State Board of Equalization. (Oral argument held February 9, 2000.)

NO/ACTION

3. JAMES H. COOPER, CASE NO. 99-1090. Appeal from dismissal. Department of Corrections. (Oral argument held February 9, 2000.)

NO/ACTION

4. BERLINDA A. GREEN, CASE NO. 99-1067. Appeal from dismissal. Department of Motor Vehicle. (Oral argument held February 9, 2000.)

NO/ACTION

5. APPEAL OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FROM THE EXECUTIVE OFFICER'S SEPTEMBER 23, 1999 DISAPPROVAL OF CIWMB'S CONTRACT WITH PRICE WATERHOUSE COOPERS IN RESPONSE TO THE REQUEST FOR REVIEW UNDER GOVERNMENT CODE 19130 SUBMITTED BY THE CALIFORNIA STATE EMPLOYEES ASSOCIATION (Hearing held February 9, 2000.)

NO/ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on February 23, 2000.

WALTER VAUGHN
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.